

## SECRET OF LBJ ELECTION TO SENATE

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Judge T. Whitfield Davidson had served at one time as Lieutenant-Governor of the State of Texas and had every reason for the complete confidence he reposed in ex-Governor Coke Stevenson. After lengthy consideration of ex-Governor Coke Stevenson's application for an injunction, Judge T. Whitfield Davidson ordered all returns of the August 28th 1948 run-off primary election in Precinct No. 13 of Jim Wells County impounded for examination by a commissioner to be appointed by the Federal District Court, and further enjoining Secretary of State Paul Brown from printing LBJ's name on the ballots until that examination was completed. The temporary injunction granted to ex-Governor Coke Stevenson by Judge T. Whitfield Davidson was ordered to remain in force and effect until a hearing on September 21st 1948 was heard on the question of making the injunction permanent.

The sweeping injunction by a Federal District Court was a great shock to LBJ and to his political cronies. That injunction prevented Secretary of State Paul Brown from printing LBJ's name on the ballot. The type from which the ballots were to be printed had been set up by the printer promptly, and the ballots were being printed when Secretary of State Brown arrived at the printer's place of business. Secretary of State Paul Brown ordered the printer to remove LBJ's name from the ballots and leave a blank space on the ballots requiring voters in the general election in November to write in the name of their choice for Senator. Secretary of State Paul Brown further ordered the printer to destroy the few hundred ballots already printed on which LBJ's name appeared as the candidate of the Democratic Party for United States Senator.

Further legal proceedings developed immediately on both sides. Sam Rayburn, at that time Speaker of the House of Representatives in Congress, was a powerful political figure in Texas and in national affairs. Sam Rayburn immediately telegraphed orders to every member of the State Democratic Executive Committee to meet at his home in Bonham for an overnight caucus. At the same time, LBJ with a staff of attorneys headed by John Coffey, flew to New Orleans to seek an order there from the Federal Fifth District Court of Appeals setting aside the injunction issued by Federal District Court Judge T. Whitfield Davidson.

In New Orleans, Federal Judge J. C. Hutcheson, Jr. heard LBJ's application to set aside Judge T. Whitfield Davidson's injunction. After a brief hearing on LBJ's application, Judge J. C. Hutcheson, Jr. decreed the matter was too important to be decided by one judge, and decreed further that LBJ's application should be heard by the full court of three judges of the Federal Fifth Circuit Court of Appeals in a public hearing to be held on October 2nd, 1948.

The State Democratic Executive Committee became a party to the proceedings LBJ instituted in New Orleans before Federal Circuit Judge J. C. Hutcheson, Jr. in the Fifth Circuit Court of appeals, as the outcome of the overnight caucus of the State Democratic Executive Committee called by Sam Rayburn to meet at his Bonham home.

As planned for that development, the Election Boards of all 254 Texas counties became involved in that litigation, and for that reason the pending legal proceeding became a "class action," enabling LBJ to remove that proceeding from the Fifth Circuit Court of Appeals in New Orleans, before Federal Circuit Judge J. C. Hutcheson, Jr. to the United States Supreme Court in Washington before Associate Justice Hugo L. Black.

In the interim, Federal District Judge T. Whitfield Davidson in Dallas appointed R. E. "Bob" Smith of San Antonio the Commissioner of the Federal District Court, and invested him with the broadest power to proceed without delay to Jim Wells County, to impound all ballot boxes, issue subpoenas, administer oaths, and swear in as officers of the court all the help he required to com-

plete his assignment within three days, when he was to report results of his investigation to Federal District Judge T. Whitfield Davidson for further action by him in the matter.

Commissioner R. E. "Bob" Smith proceeded in that matter without losing any time. Deputy United States marshals appointed by him were unable to serve papers on Thomas Donald, who was alleged to have been "called to Mexico" on business. The Deputy United States marshals likewise found all other election officials suddenly "called out of town," and they were unable to serve them with subpoenas to appear.

However, the ballot boxes were not difficult to locate. All ballot boxes including the ballot box of Precinct No. 13 of Jim Wells County were stacked in a corner of the jail. All the ballot boxes were unlocked, none were locked. But inside the ballot boxes there was nothing but old newspapers and rubbish. There were neither voting lists nor ballots on any of the ballot boxes there.

When the hearing before Federal District Judge J. C. Hutcheson, Jr. opened, LBJ filed a petition to vacate the injunction granted ex-Governor Coke Stevenson by Federal District Judge T. Whitfield Davidson. LBJ's attorney John Coffey made the following oral pleading, and pointing to ex-Governor Coke Stevenson stated:

"The plaintiff lost his race for United States Senatorial nominee in a Democratic primary, over which only the regular Democratic officials have jurisdiction. This court has no jurisdiction. He has no civil rights as pleaded in his petition. He is merely a poor loser and there is no law . . ."

Whereupon, Federal Circuit Judge T. Whitfield Davidson promptly banged his gavel angrily and cut short John Coffey's tirade with remarks seldom heard delivered from the bench in a Federal Circuit Court, with the following admonition to LBJ's attorney:

"This plaintiff, Mr. Stevenson, has duly alleged he has been robbed by fraud of a seat in the United States Senate. Not a shred of evidence has been submitted to disprove his claim, and he would be entitled to a hearing in open court if there was not a law on the books of any kind. And, that hearing he shall have. This court will decide on the merits of his petition."

However, that hearing never took place. Federal District Court Judge T. Whitfield Davidson had hardly ended his remarks to John Coffey, and ordered the hearing to proceed, when a Deputy United States marshal stepped forward and served the presiding judge in a Federal Circuit Court with a notice that Associate Justice Hugo L. Black of the United States Supreme Court had issued a mandamus ordering the hearing in the Federal District Court to cease forthwith, and further that the injunction issued by that court be immediately dissolved, and any further action concerning the election returns of Precinct No. 13 of Jim Wells County be suspended until further action by the United States Supreme Court in that matter.

Federal District Court Judge T. Whitfield Davidson was left with no alternative, and the hearing was abruptly ended with this comment from the bench in open court by Judge T. Whitfield Davidson:

**"THIS COURT HAS NO CHOICE BUT TO SUBMIT TO THE MANDATE FROM THE SUPREME COURT, ALTHOUGH IN MY OPINION MR. JUSTICE BLACK HAS ACTED HASTILY AND PROBABLY UNLAWFULLY."**

Secretary of State Paul Brown had already forwarded the ballots for the November nation-wide general election to the 254 Election Boards of the 254 Texas counties, ballots on which a blank space appeared in which voters were to write in the name of their choice for Senator. LBJ's name did not appear as the candidate of the Democratic Party for United States Senator on ballots delivered to the 254 Election Boards.

As the sole result of Associate Justice

Hugo L. Black's order, LBJ's name was printed in the blank space on the ballots. LBJ's name thus appeared on the ballots in the November 1948 nation-wide general election as the candidate of the Democratic Party for United States Senator. As a result, LBJ was elected to the United States Senate as Senator from the State of Texas.

The great seal of the United States Supreme Court acted in the role of a bulldozer to clear the road so that LBJ could take a seat in the United States Senate. LBJ was fortunate that his No. 1 political crony today, Abe Fortas of the New Deal fame, was able to obtain an immediate injunction in the United States Supreme Court on September 28, 1948, terminating injunction proceedings instituted by ex-Governor Coke Stevenson in Federal Courts in Texas, to investigate the August 28, 1948 run-off primary election.

Abe Fortas had to work fast. In New Orleans, Federal Fifth Circuit Court of Appeals Judge J. C. Hutcheson, Jr. decreed a public hearing on October 2, 1948 before the full court of three judges, to hear ex-Governor Coke Stevenson's side of the story. In Dallas, Federal District Court Judge T. Whitfield Davidson's hearing was proceeding when Associate Justice Hugo L. Black's order terminated further action of any kind in the Federal District Court in Texas.

Abe Fortas did work fast. He obtained from the United States Supreme Court the only order that could stop all further investigation of the legality of the August 28, 1948 run-off primary election and LBJ's right to a seat in the United States Senate from the State of Texas in 1948.

It is difficult to speculate what LBJ's status would be today if Associate Justice Hugo L. Black had not issued his September 28, 1948 injunction. There is every reason to believe that ex-Governor Coke Stevenson would have been elected in 1948 to the United States Senate as a Senator from the State of Texas. Mystery cloaks the reason why Associate Justice Hugo L. Black so hastily issued his September 28, 1948 injunction. There was no reason for haste as two Federal proceedings were then pending, with every indication that they would be decided before the November 1948 nation-wide general election nullifying LBJ's nomination.

LBJ is faced with a terrific problem. LBJ is now the President of the United States. No one can question the fact that LBJ was duly elected Vice-President of the United States in 1960 and presently occupies the White House as President of the United States. The problem LBJ faces is the growing belief throughout the nation today that his election to the United States Senate in 1948 was stolen for him by political cronies.

It is neither fair to LBJ nor to the voters in the United States today that this matter is not fully reviewed by LBJ and other parties concerned before Election Day in November. LBJ has a right to the benefit of any doubt that he became an accessory before or after the fact until or unless it can be proved otherwise, and the voters also have a right to know the facts relating to this matter before they go to the polls on Election Day to choose their next President.

## Common Sense.

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